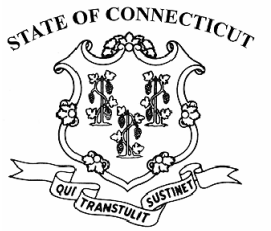

House Bill No. 5759

Public Act No. 13-97

AN ACT CONCERNING THE LEGISLATIVE COMMISSIONERS' RECOMMENDATIONS FOR TECHNICAL CORRECTIONS TO THE GENERAL STATUTES CONCERNING THE STANDING COMMITTEE ON AGING.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (c) of section 3-123aa of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(c) There is established an advisory committee to the Connecticut Homecare Option Program for the Elderly, which shall consist of the State Treasurer, the Comptroller, the Commissioner of Social Services, a representative of the Commission on Aging, the director of the long-term care partnership policy program within the Office of Policy and Management, and the cochairpersons and ranking members of the joint standing committees of the General Assembly having cognizance of matters relating to aging, human services and finance, revenue and bonding, **[**and the cochairpersons and ranking members of the select committee having cognizance of matters relating to aging,**]** or their designees. The Governor shall appoint one provider of home care services for the elderly and a physician specializing in geriatric care. The advisory committee shall meet at least annually. The State

Comptroller shall convene the meetings of the committee.

Sec. 2. Subsection (c) of section 17b-339 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(c) Not later than January 1, 2010, and annually thereafter, the committee shall submit a report on its activities to the joint standing committees of the General Assembly having cognizance of matters relating to aging, appropriations and the budgets of state agencies, human services and public health, **[**and to the select committee of the General Assembly having cognizance of matters relating to aging,**]** in accordance with the provisions of section 11-4a.

Sec. 3. Subsection (a) of section 17b-340 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The rates to be paid by or for persons aided or cared for by the state or any town in this state to licensed chronic and convalescent nursing homes, to chronic disease hospitals associated with chronic and convalescent nursing homes, to rest homes with nursing supervision, to licensed residential care homes, as defined by section 19a-490, and to residential facilities for the mentally retarded which are licensed pursuant to section 17a-227 and certified to participate in the Title XIX Medicaid program as intermediate care facilities for the mentally retarded, for room, board and services specified in licensing regulations issued by the licensing agency shall be determined annually, except as otherwise provided in this subsection, after a public hearing, by the Commissioner of Social Services, to be effective July first of each year except as otherwise provided in this subsection. Such rates shall be determined on a basis of a reasonable payment for such necessary services, which basis shall take into account as a factor the costs of such services. Cost of such services shall include

reasonable costs mandated by collective bargaining agreements with certified collective bargaining agents or other agreements between the employer and employees, provided "employees" shall not include persons employed as managers or chief administrators or required to be licensed as nursing home administrators, and compensation for services rendered by proprietors at prevailing wage rates, as determined by application of principles of accounting as prescribed by said commissioner. Cost of such services shall not include amounts paid by the facilities to employees as salary, or to attorneys or consultants as fees, where the responsibility of the employees, attorneys, or consultants is to persuade or seek to persuade the other employees of the facility to support or oppose unionization. Nothing in this subsection shall prohibit inclusion of amounts paid for legal counsel related to the negotiation of collective bargaining agreements, the settlement of grievances or normal administration of labor relations. The commissioner may, in his discretion, allow the inclusion of extraordinary and unanticipated costs of providing services which were incurred to avoid an immediate negative impact on the health and safety of patients. The commissioner may, in his discretion, based upon review of a facility's costs, direct care staff to patient ratio and any other related information, revise a facility's rate for any increases or decreases to total licensed capacity of more than ten beds or changes to its number of licensed rest home with nursing supervision beds and chronic and convalescent nursing home beds. The commissioner may so revise a facility's rate established for the fiscal year ending June 30, 1993, and thereafter for any bed increases, decreases or changes in licensure effective after October 1, 1989. Effective July 1, 1991, in facilities which have both a chronic and convalescent nursing home and a rest home with nursing supervision, the rate for the rest home with nursing supervision shall not exceed such facility's rate for its chronic and convalescent nursing home. All such facilities for which rates are determined under this subsection shall report on a fiscal year basis ending on the thirtieth day of September. Such report shall be

submitted to the commissioner by the thirty-first day of December. The commissioner may reduce the rate in effect for a facility which fails to report on or before such date by an amount not to exceed ten per cent of such rate. The commissioner shall annually, on or before the fifteenth day of February, report the data contained in the reports of such facilities to the joint standing committee of the General Assembly having cognizance of matters relating to appropriations. For the cost reporting year commencing October 1, 1985, and for subsequent cost reporting years, facilities shall report the cost of using the services of any nursing pool employee by separating said cost into two categories, the portion of the cost equal to the salary of the employee for whom the nursing pool employee is substituting shall be considered a nursing cost and any cost in excess of such salary shall be further divided so that seventy-five per cent of the excess cost shall be considered an administrative or general cost and twenty-five per cent of the excess cost shall be considered a nursing cost, provided if the total nursing pool costs of a facility for any cost year are equal to or exceed fifteen per cent of the total nursing expenditures of the facility for such cost year, no portion of nursing pool costs in excess of fifteen per cent shall be classified as administrative or general costs. The commissioner, in determining such rates, shall also take into account the classification of patients or boarders according to special care requirements or classification of the facility according to such factors as facilities and services and such other factors as he deems reasonable, including anticipated fluctuations in the cost of providing such services. The commissioner may establish a separate rate for a facility or a portion of a facility for traumatic brain injury patients who require extensive care but not acute general hospital care. Such separate rate shall reflect the special care requirements of such patients. If changes in federal or state laws, regulations or standards adopted subsequent to June 30, 1985, result in increased costs or expenditures in an amount exceeding one-half of one per cent of allowable costs for the most recent cost reporting year, the commissioner shall adjust rates and

provide payment for any such increased reasonable costs or expenditures within a reasonable period of time retroactive to the date of enforcement. Nothing in this section shall be construed to require the Department of Social Services to adjust rates and provide payment for any increases in costs resulting from an inspection of a facility by the Department of Public Health. Such assistance as the commissioner requires from other state agencies or departments in determining rates shall be made available to him at his request. Payment of the rates established hereunder shall be conditioned on the establishment by such facilities of admissions procedures which conform with this section, section 19a-533 and all other applicable provisions of the law and the provision of equality of treatment to all persons in such facilities. The established rates shall be the maximum amount chargeable by such facilities for care of such beneficiaries, and the acceptance by or on behalf of any such facility of any additional compensation for care of any such beneficiary from any other person or source shall constitute the offense of aiding a beneficiary to obtain aid to which he is not entitled and shall be punishable in the same manner as is provided in subsection (b) of section 17b-97. For the fiscal year ending June 30, 1992, rates for licensed residential care homes and intermediate care facilities for the mentally retarded may receive an increase not to exceed the most recent annual increase in the Regional Data Resources Incorporated McGraw-Hill Health Care Costs: Consumer Price Index (all urban)-All Items. Rates for newly certified intermediate care facilities for the mentally retarded shall not exceed one hundred fifty per cent of the median rate of rates in effect on January 31, 1991, for intermediate care facilities for the mentally retarded certified prior to February 1, 1991. Notwithstanding any provision of this section, the Commissioner of Social Services may, within available appropriations, provide an interim rate increase for a licensed chronic and convalescent nursing home or a rest home with nursing supervision for rate periods no earlier than April 1, 2004, only if the commissioner determines that the increase is necessary to avoid

the filing of a petition for relief under Title 11 of the United States Code; imposition of receivership pursuant to sections 19a-541 to 19a-549, inclusive; or substantial deterioration of the facility's financial condition that may be expected to adversely affect resident care and the continued operation of the facility, and the commissioner determines that the continued operation of the facility is in the best interest of the state. The commissioner shall consider any requests for interim rate increases on file with the department from March 30, 2004, and those submitted subsequently for rate periods no earlier than April 1, 2004. When reviewing a rate increase request the commissioner shall, at a minimum, consider: (1) Existing chronic and convalescent nursing home or rest home with nursing supervision utilization in the area and projected bed need; (2) physical plant long-term viability and the ability of the owner or purchaser to implement any necessary property improvements; (3) licensure and certification compliance history; (4) reasonableness of actual and projected expenses; and (5) the ability of the facility to meet wage and benefit costs. No rate shall be increased pursuant to this subsection in excess of one hundred fifteen per cent of the median rate for the facility's peer grouping, established pursuant to subdivision (2) of subsection (f) of this section, unless recommended by the commissioner and approved by the Secretary of the Office of Policy and Management after consultation with the commissioner. Such median rates shall be published by the Department of Social Services not later than April first of each year. In the event that a facility granted an interim rate increase pursuant to this section is sold or otherwise conveyed for value to an unrelated entity less than five years after the effective date of such rate increase, the rate increase shall be deemed rescinded and the department shall recover an amount equal to the difference between payments made for all affected rate periods and payments that would have been made if the interim rate increase was not granted. The commissioner may seek recovery from payments made to any facility with common ownership. With the approval of the

Secretary of the Office of Policy and Management, the commissioner may waive recovery and rescission of the interim rate for good cause shown that is not inconsistent with this section, including, but not limited to, transfers to family members that were made for no value. The commissioner shall provide written quarterly reports to the joint standing committees of the General Assembly having cognizance of matters relating to aging, human services and appropriations and the budgets of state agencies, **[**and to the select committee of the General Assembly having cognizance of matters relating to aging,**]** that identify each facility requesting an interim rate increase, the amount of the requested rate increase for each facility, the action taken by the commissioner and the secretary pursuant to this subsection, and estimates of the additional cost to the state for each approved interim rate increase. Nothing in this subsection shall prohibit the commissioner from increasing the rate of a licensed chronic and convalescent nursing home or a rest home with nursing supervision for allowable costs associated with facility capital improvements or increasing the rate in case of a sale of a licensed chronic and convalescent nursing home or a rest home with nursing supervision, pursuant to subdivision (15) of subsection (f) of this section, if receivership has been imposed on such home.

Sec. 4. Subsection (b) of section 17b-369 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) (1) The Commissioner of Social Services shall submit, in accordance with this subdivision, a copy of any report on the Money Follows the Person demonstration project that the commissioner is required to submit to the Secretary of Health and Human Services and that pertains to (A) the status of the implementation of the Money Follows the Person demonstration project, (B) the anticipated date that the first eligible person or persons will be transitioned into the

community, or (C) information concerning when and how the Department of Social Services will transition additional eligible persons into the community. The commissioner shall submit such copy to the joint standing **[**committee**]** committees of the General Assembly having cognizance of matters relating to aging and human services, **[**and to the select committee of the General Assembly having cognizance of matters relating to aging,**]** in accordance with the provisions of section 11-4a. Copies of reports prepared prior to October 1, 2009, shall be submitted by said date and copies of reports prepared thereafter shall be submitted semiannually.

(2) After October 1, 2009, if the commissioner has not prepared any new reports for submission to the Secretary of Health and Human Services for any six-month submission period under subdivision (1) of this subsection, the commissioner shall prepare and submit a written report in accordance with this subdivision to the joint standing **[**committee**]** committees of the General Assembly having cognizance of matters relating to aging and human services, **[**and to the select committee of the General Assembly having cognizance of matters relating to aging,**]** in accordance with the provisions of section 11-4a. Such report shall include (A) the status of the implementation of the Money Follows the Person demonstration project, (B) the anticipated date that the first eligible person or persons will be transitioned into the community, and (C) information concerning when and how the Department of Social Services will transition additional eligible persons into the community.

Sec. 5. Subsection (e) of section 17b-427 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(e) Not later than June 1, 2001, and annually thereafter, the Insurance Commissioner, in conjunction with the Healthcare Advocate, shall submit to the Governor and to the joint standing

committees of the General Assembly having cognizance of matters relating to aging, human services and insurance, **[**and to the select committee of the General Assembly having cognizance of matters relating to aging,**]** a list of those Medicare organizations that have failed to file any data, reports or information requested pursuant to subsection (c) of this section.

Sec. 6. Subsection (e) of section 46b-59 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(e) If the Superior Court grants the right of visitation pursuant to subsection **[**(c)**]** (b) of this section, the court shall set forth the terms and conditions of visitation including, but not limited to, the schedule of visitation, including the dates or days, time and place or places in which the visitation can occur, whether overnight visitation will be allowed and any other terms and conditions that the court determines are in the best interest of the minor child, provided such conditions shall not be contingent upon any order of financial support by the court. In determining the best interest of the minor child, the court shall consider the wishes of the minor child if such minor child is of sufficient age and capable of forming an intelligent opinion. In determining the terms and conditions of visitation, the court may consider (1) the effect that such visitation will have on the relationship between the parents or guardians of the minor child and the minor child, and (2) the effect on the minor child of any domestic violence that has occurred between or among parents, grandparents, persons seeking visitation and the minor child.

Approved June 6, 2013